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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/965,050   | 09/27/2001  | Stephan Hauser       | 2001-6010-RA        | 5479             |
| 30008  | 7590        | 06/08/2004           | EXAMINER            |                  |
| GUDRUN E. HUCKETT DRAUDT<br>LONSSTR. 53<br>WUPPERTAL, 42289<br>GERMANY |             |                      | KATCHEVES, BASIL S  |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3635                |                  |

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/965,050

**Applicant(s)**

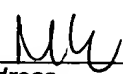
HOUSER, STEPHAN

**Examiner**

Basil Katcheves

**Art Unit**

3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

The final rejection of paper no. 15 is withdrawn due to the supplemental amendment of paper no. 16 being received by this office before the final rejection of paper no. 15 was mailed to the applicant. Applicant has cancelled claims 1-29 and added new claims 30-50. Pending claims 30-50 have been examined below.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30, 35-39, 43-46 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 553,305 to Fordyce.

Regarding claim 30, Fordyce discloses a concrete wall panel (line 16) composed of wire mesh reinforcing insert screens (fig. 10) spaced relative to each other to form a three dimensional system, wherein each mesh screen has different mesh widths in order to allow the concrete to pass through one layer and be secured by the lower layer. Fordyce also discloses a slurry poured through the mesh screen system (page 1, line 98 – page 2, line 6).

Regarding claim 35, Fordyce discloses the mesh as being metal wire (fig. 10).

Regarding claims 36 and 49, Fordyce discloses the panel as having an inherent weight dependant upon the thickness of the panel (lines 118-123) and aggregate.

Regarding claim 37, Fordyce discloses the mesh layers as being interconnected (fig. 2: B & b).

Regarding claim 38, Fordyce discloses elements for interconnecting the meshes together (fig. 10: see wires looping together component b to component B at the peaks and valleys of B).

Regarding claim 39, Fordyce discloses adjusting the thickness of the member by varying the mesh wires (fig. 8).

Regarding claim 43, Fordyce discloses different types of mesh (lines 81-83).

Regarding claim 44, Fordyce discloses different shapes of mesh (fig. 10).

Claim 45 is rejected for reasons cited in the rejections of claims 43 and 44.

Regarding claim 46, Fordyce discloses the mesh as being prestressed (fig. 1: B, b, A3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-34, 40-42, 47, 48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 553,305 to Fordyce.

Regarding claim 31, Fordyce discloses the basic claim limitations but does not specifically disclose a second aggregate. However, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fordyce by using a second aggregate such as gravel to the concrete, as it is common practice in the art to add varying aggregates of gravel to concrete structures in order to increase their stiffness and strength.

Regarding claim 32, it is an inherent property for gravel aggregate to pass through a sieve having openings larger than the aggregate size and for the aggregate to stop on a sieve having openings smaller than the aggregate size.

Regarding claim 33, Fordyce discloses adjusting the thickness of the member by varying the mesh wires (fig. 8).

Regarding claim 34, Fordyce discloses the panel as having an inherent weight dependant upon the thickness of the panel (lines 118-123) and aggregate sizes.

Regarding claim 40, Fordyce discloses the basic claim structure of the instant application but does not disclose specific dimensions of thickness. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claims 41 and 42, Fordyce discloses the basic claim structure of the instant application but does not disclose specific dimensions of the wire mesh. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 47, Fordyce discloses the mesh as made from metal but not from both metal and plastic. Duke discloses panels having mesh wires made from plastic (column 4, lines 17-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fordyce by using plastic for the corrugated mesh in order to ease and speed the shaping of the mesh.

Regarding claim 48, Fordyce discloses the claimed invention of two layers of mesh but does not claim three layers of mesh. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add an extra layer of mesh to increase the strength of the panel, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. V. Bemis Co.*, 193 USPQ 8.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 553,305 to Fordyce in view of U.S. Patent No. 5,251,414 to Duke.

Regarding claim 50, Fordyce discloses the panel as having an inherent weight dependant upon the thickness of the panel (lines 118-123) and aggregate sizes.

### ***Response to Arguments***

Applicant's arguments filed 2/27/04 are moot under new grounds of rejections.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is

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(703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

*BK*

6/1/04

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600